

S/N 10/751,340

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Daniel Lovy et al. Examiner: Jeffery Rutkowski
Serial No.: 10/751,340 Group Art Unit: 2619
Filed: January 3, 2004 Docket: 1370.249US1
Title: METHOD AND APPARATUS FOR DEVICE COMMUNICATIONS

PETITION UNDER 37 CFR 1.47(a)

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

09/12/2008 10751340 12288822 190743 10751340
10 FC:1463 450.00 DA

Pursuant to 37 C.F.R. § 1.47(a), this Petition is submitted seeking permission to file the above-identified patent application (hereinafter “the application”) without the signature of Daniel Lovy, a co-inventor of the application, who is refusing to sign the substitute declaration.

In the Office Actions dated July 12, 2007 and March 11, 2008, Examiner Jeffrey M. Rukowski had indicated that the original declaration filed on January 3, 2004 by co-inventors Daniel Lovy, David Arfin, and Edward Sesek is defective, and that a new (or substitute) oath or declaration is required. In particular, the substitute declaration must be signed by the co-inventors Daniel Lovy, David Arfin, and Edward Sesek to correct defects in their executions of the original declaration.

Substitute declaration executed by the co-inventors David Arfin and Edward Sesek are attached. The co-inventor Daniel Lovy has refused to sign after numerous requests.

Copy of the application papers (specification, including claims, drawings, and substitute declaration) have been sent to Daniel Lovy numerous times by e-mail and by Certified mails but Daniel Lovy remains uncooperative. The last known e-mail address for Daniel Lovy is “dan@iptvholdings.com”. The last known street address for Daniel Lovy is 1252 B Main Street, Concord, MA, 01742.

A declaration from Jonathan Ferguson, who is personally involved in the diligent effort to contact Mr. Lovy along with relevant exhibits are attached herewith.

It is believed that this Petition and the attached Exhibits constitute acceptable proof as to the diligent effort to contact the co-inventor Daniel Lovy in complying with the provisions of Rule 1.47(a), and accordingly, it is requested that the Petition be granted.

Adjustment date: 09/22/2008 CKHLDK
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In accordance with M.P.E.P. § 409.03(a), a Substitute Declaration document, with the signature block of the non-signing co-inventor Daniel Levy left blank, is enclosed.

Applicants give Authorization to charge Deposit Account 19-0743 in the amount of \$200.00 which is required under 37 C.F.R. §1.17(g). If additional fees or credits should exist, please charge or credit Deposit Account No. 19-0743 in the appropriate amount.

CONCLUSION

The Assignee has been unable to obtain the omitted inventor's signature on a Substitute Declaration pursuant to 37 C.F.R. § 1.65 for the above-identified application. Assignee submits that the present Petition is necessary to preserve its rights, to avoid further extension fees and to prevent irreparable harm by the loss of valuable patent rights.

Assignee submits that the foregoing facts establish a bona fide attempt to comply with the provisions of Rule 1.479(a), and,

The Examiner is invited to telephone Assignee's attorney at (408) 278-4059 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
408-278-4059

Date July 10, 2008

By David N. Tran

David N. Tran
Reg. No. 50,804

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10th day of July, 2008.

Jonathan Ferguson

/ Jonathan Ferguson /

Name

Signature